

MINUTES

HOUSE & SENATE INTERIM COMMITTEES ON PUBLIC HEALTH, WELFARE AND LABOR

December 4, 2017

The House and Senate Interim Committees on Public Health, Welfare and Labor met Monday, December 4, 2017, at 10:00 a.m. in Committee Room A, MAC Building, Little Rock, Arkansas.

Public Health Senate Members Attending: Senators Cecile Bledsoe, Chair; John Cooper, Lance Eads, Scott Flippo, Stephanie Flowers, and Missy Irvin.

Public Health House Members Attending: Representatives Jeff Wardlaw, Chair; Deborah Ferguson, Vice Chair; Mary Bentley, Justin Boyd, Bruce Coleman, Kim Hammer, Ken Henderson, Jack Ladyman, Robin Lundstrum, Stephen Magie, Austin McCollum, David Meeks, Josh Miller, John Payton, and Aaron Pilkington.

Other Legislators Attending: Senators Linda Chesterfield, Alan Clark, Jonathan Dismang, and Jim Hendren. Representatives Fred Allen, Charles Blake, Carol Dalby, Jim Dotson, Charlotte V. Douglas, Dan M. Douglas, Trevor Drown, Kenneth Ferguson, David Fielding, Jimmy Gazaway, Michelle Gray, Monte Hodges, Roger Lynch, Reginald Murdock, Marcus Richmond, Laurie Rushing, and Danny Watson.

Comments by the Chairs

Senator Cecile Bledsoe announced the next Public Health meeting will be January 8, 2018 at 10:00 a.m. The detailed information DHS promised to present to the committee members regarding the data breach to Medicaid beneficiaries, was distributed to each member today.

Senator Bledsoe encouraged everyone to tour the mobile dental unit that is currently parked outside of this meeting room. Barry Morton and Representative Charlotte Douglas are with the mobile unit if anyone needs assistance.

Senator Bledsoe also reminded everyone that the Health Services Subcommittee will meet this afternoon at 1:30 p.m. in this same room.

Consideration to Adopt the November 6, 2017 Minutes (EXHIBIT C)
Without objection, the November 6, 2017 meeting minutes were adopted.

Discussion of the Importance of Dental Care to Overall Public Health—Mobile Dental Units

Barry Morton, Director of Operations, Mobil Care Dental Unit, Van Buren, Arkansas, in the absence of Phillip Morton, DDS, presented a brief background of Dr. Morton and the initial start-up and operation of the Mobil Care Dental Unit—which is owned and operated by Dr. Phillip Morton with his team members. Mr. Barry Morton was assisted by Lance Montgomery, also with Mobile Care Dental. Their focus is on geriatric and nursing home patients--as many of these individuals do not or cannot come into the office.

Mr. Morton stated the motto of the Mobile Dental Care Unit is: “Taking care of those who took care of us.”

Craig Cloud, Director, Division of Provider Services & Quality Assurance, Department of Human Services (DHS); stated that within a short period of time, this program has grown exponentially. However, there was not any oversight as to medical necessity, cost, and claims for services. Proper oversight is now provided as a result of state legislation provided by state agencies.

Overview of the Arkansas All Payor Claims Database (APCD) (Handout #1)

Joe W. Thompson, MD, MPH, Director, Arkansas Center for Health Improvement, presented the overview. Dr. Thompson stated this is an update on the completion of the Arkansas All-Payer Claims Database (APCD) that is a result of the requirement of the Arkansas Healthcare Transparency Initiative Act of 2015. This database now contains all of the Arkansas insurance claims from commercial and public plans, as well as enrollment and provider data, provided by the Arkansas Insurance Department. This information will be useful for policy reports and a multitude of other studies (details and listings of suggested studies are listed in the handout).

Dr. Thompson stated that all individuals who are on physician-prescribed medical marijuana, can be linked into, and tracked through this database. It will show their complete medical history.

Arkansas State Board of Nursing (ASBN), Review of Rule Changes to Several Chapters and Provisions of the State Board of Nursing Rules Which Includes: Chapter One – General Provisions, Chapter Two – Licensure: RN, LPN, and LPTN, Chapter Four – Advanced Practice Registered Nurse, Chapter Six – Standards for Nursing Education Programs, Chapter Seven – Rules of Procedure, and Chapter Ten – Alternative to Discipline (EXHIBIT F)
Sue A. Tedford, MNSc, APRN, Executive Director, Arkansas State Board of Nursing, and Fred Knight, General Counsel, Arkansas State Board of Nursing; presented these proposed rule changes.

Ms. Tedford presented the proposed changes by each chapter. There were no questions posed on these changes. Senator Bledsoe stated that without objection, these rule changes will stand as reviewed.

Arkansas Department of Human Services (DHS), Medical Services Division, Review of Rule to Remove the Attention Deficit Hyperactivity Disorder (ADHD) and the Oppositional Defiant Disorder (ODD) Episodes of Care from the Medicaid Manual, and Arkansas State Plan-State Plan Amendment 2017-008 and Episodes of Care 1-17 (EXHIBIT G)

Tami Harlan, Chief Operating Officer, Division of Medical Services, DHS; presented the proposal to remove the Attention Deficit Hyperactivity Disorder (ADHD) and the Oppositional Defiant Disorder (ODD) Episodes of Care from the Medicaid Manual, and Arkansas State Plan-State Plan Amendment 2017-008 and Episodes of Care 1-17.

These services will become part of the Patient Centered Medical Home (PCMH) Program. Cost and quality will become the responsibility of the primary care physician in the PCMH program. Transitional information to the providers in the PCMH program will continue until completion in July, 2018.

Representative Hammer wanted to know if DHS would be able to find all of the ADHD and ODD individuals who need to be assessed for this new tiered behavioral health program. Ms. Harlan stated that she would research this information and get it to Representative Hammer.

Senator Irvin suggested that the Public Health Committee invite the DHS Director and the Medicaid Director to a future meeting to clarify several points of confusion regarding this change. Senator Bledsoe agreed.

This rule change will require the approval of CMS (Centers for Medicare and Medicaid Services), and it was pending as of November 16, 2017. The proposed effective date is January 1, 2018.

Senator Bledsoe stated that without objection this rule will stand as reviewed.

This Rule Was Referred to House and Senate Public Health, Welfare, and Labor Committee from the Arkansas Legislative Council for a Recommendation. State Board of Pharmacy, Review of Rules Regarding Drug Substitution and Limits of Dispensing for Schedule II Narcotics (EXHIBIT H)

John Clay Kirtley, Pharm.D., Executive Director, Arkansas State Board of Pharmacy, presented this proposed rule. After Dr. Kirtley's presentation, there was much discussion and debate by legislators, and the presenters. Dr. Kirtley stated that biologics have existed since approximately the 1920s as vaccines and insulin.

Representative Magie presented his reasons for opposing this proposed rule change, and stated this needs to be acted upon legislatively and put in statute. Representative Magie requested that this rule be pulled down, studied and debated in this interim, and brought back to the 2019 Session.

Jessica Sutton, Administrator, Administrative Rules Review Section, Bureau of Legislative Research; said that under Arkansas code, the Pharmacy Board may determine what are generically equivalent drugs, therefore, they have authority to present this rule; as long as the substances are legally classified as drugs.

Kimberly Greco, a representative of AMGEN, a biotech company that makes both innovative and bio-similar medicines; spoke to the rule and provided information on this issue. She stated that federal law regulates biotech medicines (drugs) and chemical drugs under two separate laws.

Bart Calhoun, McDaniel, Richardson & Calhoun Company, an alliance for safe biologic medicines; presented his analysis on whether or not this rule conflicts with state and/or federal law. By Arkansas case law from the State Supreme Court, Arkansas statute does not cover biologics, and does not grant the Pharmacy Board authority to substitute biologics. Mr. Calhoun stated, that in his opinion, the Pharmacy Board overstepped its authority by introducing this proposed rule. All other states have handled this issue through legislation.

Representative Hammer asked Mr. Calhoun if the firm he is associated with has ever requested an issue be handled through rules instead of through the legislative process. Mr. Calhoun did not know, but stated he would get that information to Representative Hammer.

Senator Irvin made a motion that the House & Senate Public Health Committees not review this rule, due to the fact that it is inconsistent with legislative intent of HB1204 of 2017 sponsored by Representative Magie. No action was taken on this motion because there was no quorum. Senator Bledsoe adjourned the meeting, and stated that the Public Health Committee would meet again on Thursday, December 6, 2017, to continue this discussion.

The meeting adjourned at 1:00 p.m.